

[Complete list of parties represented may be found on signature page]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**



ANITA HUNTER, et al.

Case No.: 09-cv-02079 JW

Plaintiffs,

Assigned to Hon. James Ware

CITIBANK, N.A., et al.

**STIPULATION AND [PROPOSED]
ORDER RE: HEARING ON MOTION
FOR SUMMARY JUDGMENT AND
FACT DISCOVERY CUTOFF**

Defendants

Related to Case No.: 5:09-md-02028 JW

WHEREAS, the preliminary approval hearing for the Wave III Settlements is set for February 7, 2011, and, if approved, the Wave III funds will add to the over \$106 million provided by Waves I and II;

WHEREAS, after Wave III, Plaintiffs believe only a small number of defendants will remain in this class action;

WHEREAS, one Defendant that will not be in Wave III is Defendant Silicon Valley law Group (“SVLG”);

WHEREAS, SVLG has filed its Motion for Summary Judgment (“MSJ”, Docket No. 402) which is presently calendared to be heard on January 31, 2011;

WHEREAS, Plaintiffs' opposition to the MSJ is presently due January 10, 2011;

WHEREAS, Counsel for Plaintiffs and SVLG agree that certain depositions must be taken before briefing on the MSJ can be completed;

WHEREAS, Counsel for Plaintiffs and SVLG agree that, due to the holidays and other conflicts, the discovery that must be completed to fully brief the MSJ cannot be completed within the existing schedule;

WHEREAS, in addition, the Bankruptcy Trustee appointed in the Okun Bankruptcy

1 Proceedings (*In re The 1031 Tax Group, LLC*, U.S. Bankruptcy Court, S.D.N.Y. Case No. 07-
 2 bk-11448-MG) has recently filed his case against SVLG in this Court (*McHale v. Silicon Valley*
 3 *Law Group*, Case No. 5:10-cv-04864-HRL);

4 WHEREAS, this Court has previously directed the parties to this action to coordinate
 5 depositions with the Bankruptcy Trustee when practicable;

6 WHEREAS, in order to provide time for the MSJ discovery to be coordinated with the
 7 Trustee and completed, Counsel for Plaintiffs and SVLG agree that the MSJ hearing date
 8 should be continued by 60 days, or until April 1, 2011, so long as the other dates herein
 9 discussed are also continued;¹

10 WHEREAS, Counsel for Plaintiffs and SVLG, as well as counsel for certain other
 11 defendants, agree that, while in the near term the focus of depositions will likely be on
 12 completing the MSJ discovery, additional depositions are needed to prepare for trial, and the
 13 current fact discovery cut-off of February 14, 2011 needs be continued to allow time for that
 14 additional fact discovery to be completed, particularly as to damages, after the MSJ is ruled
 15 upon;

16 WHEREAS, Counsel for Plaintiffs and the Defendants² agree that the following case
 17 deadlines should all be continued: (1) the MSJ hearing date should be continued by roughly 60
 18 days, or until April 1, 2011; (2) the fact discovery cut-off should be continued by roughly 90
 19 days or until May 13, 2011; (3) the Expert Disclosure deadline (presently March 14, 2011)
 20 should be continued to May 23, 2011; and, (4) the deadline for Disclosure of Rebuttal Expert
 21 Witnesses (presently March 28, 2011) should be continued to May 31, 2011.

22 NOW THEREFORE, BASED UPON THE FOREGOING, IT IS HEREBY
 23 STIPULATED AND AGREED THAT: the hearing date on SVLG's MSJ should be continued
 24 until April 1, 2011; the fact discovery cut-off should be continued to May 13, 2011; the Expert

25 _____
 26 ¹ SVLG's agreement to continue the MSJ hearing date is contingent upon the other dates herein
 27 discussed also being continued.

28 ² Defendants Foley & Lardner and Steve Burr, as well as Defendants Kutak Rock and Joe Kavan are not
 parties to this Stipulation because they are settling in Wave III and have been exempted from discovery
 pending approval of their respective settlements pursuant to prior stipulations.

1 Disclosure deadline should be continued to May 23, 2011; and, the deadline for Disclosure of
2 Rebuttal Expert Witnesses should be continued to May 31, 2011. All other dates previously
3 ordered by the court in Docket No. 370 will remain the same.

4 Dated: November 11, 2010

**HOLLISTER & BRACE
FOLEY BEZEK BEHLE & CURTIS LLP
ZELLE MCDONOUGH & COHEN**

6 By: /s/ Michael P. Denver

7 ROBERT L. BRACE
8 MICHAEL P. DENVER
HOLLISTER & BRACE
P.O. Box 630
9 Santa Barbara, CA 93102
Telephone: (805) 963-6711

10 and

11 THOMAS G. FOLEY, JR
12 **FOLEY, BEZEK, BEHLE
& CURTIS LLP**
13 15 W. Carrillo Street
14 Santa Barbara, CA 93101
Telephone: (805) 962-9495

15 *Attorneys for Plaintiff Anita Hunter and
the Class*

16 ANTHONY ZELLE
17 BRIAN MCDONOUGH
**ZELLE MCDONOUGH
& COHEN LLP**
18 101 Federal Street, 14th Floor
19 Boston, MA 02110
Telephone: (617) 742-6520 x219
20 (Appearing *Pro hac vice*)

21 *Attorneys for Plaintiff Quirk Infiniti and the
Class*

22 Dated: November 11, 2010

GREENBERG TRAURIG, LLP

23 By: /s/ William Goines

24 WILLIAM GOINES
25 1900 University Avenue, 5th Floor
26 East Palo Alto, CA 94303
Telephone: (650) 289-7860

27 *Attorney for Defendant United Western
Bank (f/k/a Matrix Capital Bank)*

1 Dated: November 11, 2010

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LEVINE KELLOGG LEHMAN
SCHNEIDER & GROSSMAN LLP

By: /s/ Lawrence Kellogg
LAWRENCE A. KELLOGG
LEVINE KELLOGG LEHMAN
SCHNEIDER & GROSSMAN LLP
Miami Center - 34th Floor
201 South Biscayne Boulevard
Miami, FL 33131
Telephone: (305) 403-8788

and

TIMOTHY J. HALLORAN
JONATHAN M. BLUTE
MURPHY, PEARSON, BRADLEY
& FEENEY
88 Kearny Street, 10th Floor
San Francisco, CA 94108-5530
Telephone: (415)788-1900

Attorneys for Defendant Jorden Burt LLP

Dated: November 11, 2010

THE GORDON LAW FIRM LLP

By: /s/ Todd B. Gordon
STEPHEN F. GORDON
TODD B. GORDON
101 Federal Street, 17th Floor
Boston, MA 02110
Telephone: (617) 261-0100 Ext 128
Direct Dial: (617)456-1270

(Appearing *Pro hac vice*)

and

Michael Drury, Esq.
Jeffrey N. Labovitch, Esq.
RIEDL, MCCLOSKEY & WARING LLP
550 West "C" Street, Suite 2050
San Diego, CA 92101
Telephone: (619) 237-3095

*Attorneys for the Boulder Defendants and
Defendant Roy S. MacDowell, Jr.*

1 Dated: November 11, 2010

FOLEY & LARDNER LLP

2 By: /s/ Douglas Spelfogel
3 DOUGLAS SPELFOGEL
4 90 Park Avenue, 36th Floor
New York, NY 10016-1301
Telephone: (212) 682-7474

5 EILEEN RIDLEY, ESQ.
6 PATRICK T. WONG, ESQ.
One Maritime Plaza, Sixth Floor
7 San Francisco, CA 94111-3404
Telephone: (415) 434-4484

8 *Attorneys for Defendants Cordell Funding
9 LLLP, Cordell Consultants, New York, LLC,
Cordell Consultants Inc. Money Purchase
10 Plan, and Robin Rodriguez*

11 Dated: November 11, 2010

SIDLEY AUSTIN LLP

12 By: /s/ Kevin Fee
13 KEVIN FEE
14 MARK B. BLOCKER
15 THOMAS R. HEISLER
One South Dearborn St.
16 Chicago, IL 60603
Telephone: (312) 853-6097

17 CAROL LYNN THOMPSON
R. VAN SWEARINGTON
18 555 California Street, Suite 2000
San Francisco, CA 94104
19 Telephone: (415)772-1291

20 JOHN VAN DE WEERT
1501 K Street, N.W.
21 Washington, D.C. 20005
Telephone: (202) 736-8094

22 *Attorneys for Defendant Citibank, N.A.*

1 Dated: November 11, 2010

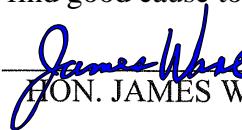
LERCH STURMER LLP

2 By: /s/ Debra Sturmer

3 JEROME LERCH
4 DEBRA STURMER
5 BRETT BROGE
6 333 Bush St. Ste. 2020
7 San Francisco, CA 94104
8 Telephone: (415) 217-6340
9 *Attorneys for Defendant Silicon Valley*
10 *Law Group*

11 **IT IS SO ORDERED.** The Court does not find good cause to grant the parties' stipulation.

12 Dated: November 12, 2010


HON. JAMES WARE

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14
15
16 I, Michael P. Denver am the ECF User whose ID and password are being used to file this
17 **STIPULATION AND PROPOSED ORDER RE: HEARING ON MOTION FOR**
18 **SUMMARY JUDGMENT AND FACT DISCOVERY CUTOFF.** In compliance with
19 General Order 45, X.B., I hereby attest that the counsel whose e-signature appears on the
20 foregoing signature pages has concurred in this filing.

21 /s/

22 Michael P. Denver